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# Message Text

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66611
DRAFTED BY: EUR/NE:NACHILLES:DF
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S/S-MR. EALUM
---------- 112045
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FM SECSTATE WASHDC
TO AMEMBASSY LONDON

C O N F I D E N T I A L STATE 091710

E.O. 11652: GDS

TAGS: EGEN

SUBJECT: VISIT OF SIR DONALD MAITLAND: PUBLISHERS ASSOC

AT THE END OF SIR DONALD'S APRIL 18 CALL ON UNDER SECRETARY ROBINSON (SEE SEPTEL) HE PASSED ON TO US TALKING POINTS HE HAD NOT COVERED RELATED TO A DRAFT CONSENT DECREE PREPARED BY OUR DEPARTMENT OF JUSTICE. THE DECREE RESULTS FROM AN ANTI-TRUST ACTION INVOLVING TWO US SUBSIDIARIES OF BRITISH PUBLISHERS AND THE PUBLISHERS ASSOCIATION OF LONDON. THE TALKING POINTS FOLLOW AN AIDE MEMOIRE ON THE SAME SUBJECT DELIVERED ON APRIL 14 TO THE DEPARTMENT'S ACTING ASSISTANT SECRETARY OF STATE FOR ECONOMIC AND BUSINESS AFFAIRS.
THE TALKING POINTS ARE BEING POUCHED. THE TEXT OF THE AIDE MEMOIRE FOLLOWS:

HER BRITANNIC MAJESTY'S GOVERNMENT WISH TO DRAW THE ATTEN-
TION OF THE DEPARTMENT OF STATE TO THE DRAFT CONSENT DECREE
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PREPARED BY THE DEPARTMENT OF JUSTICE IN ITS CASE AGAINST

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21 US PUBLISHING HOUSES INCLUDING TWO US SUBSIDIARIES OF BRITISH PUBLISHERS AND IN WHICH THE PUBLISHERS ASSOCIATION OF LONDON AND ITS MEMBERS ARE NAMED AS CO-CONSPIRATORS. A COPY OF THE DRAFT DECREE IS ATTACHED. (ASTERISK)

ALTHOUGH THE MAIN DEFENDANTS IN THE SUIT ARE US COMPANIES, THE BURDEN OF THE CASE IS IN FACT AN ATTACK ON THE PUBLISHERS ASSOCIATION GENERALLY AS WELL AS ON THE BRITISH TRADITIONAL MARKET AGREEMENT. THE PUBLISHERS ASSOCIATION IS A HIGHLY REPUTABLE ASSOCIATION WITH A WIDE RANGE OF ACTIVITIES AND THE BRITISH TRADITIONAL MARKET AGREEMENT DOES NOT CONTRAVENE UK LAW. HMG ARE THEREFORE CONCERNED ABOUT THE TENOR OF THE DRAFT THROUGHOUT WHICH IS TAKEN SO FAR IN CLAUSE V1 AS TO MAKE IT AN OFFENSE FOR ANY DEFENDANT, WITHIN THE WIDE NET OF CLAUSE 111 AND WHETHER OR NOT OF US NATIONALITY OR DOMICILE, TO BELONG TO THE PUBLISHERS ASSOCIATION.

HER MAJESTY'S GOVERNMENT APPRECIATE THAT THE US GOVERNMENT WISHES TO TAKE THE ACTION IT JUDGES APPROPRIATE UNDER US LAW INSOFAR AS US DOMESTIC INTERESTS ARE CONCERNED. HOWEVER, HMG WISH TO POINT OUT THAT THE CONSENT DECREE PROPOSED BY THE JUSTICE DEPARTMENT SEEKS TO AFFECT AND RESTRAIN IN A SERIOUS WAY THE RIGHTS ENJOYED BY BRITISH NATIONALS INCLUDING RIGHTS UNDER BRITISH LAW. HMG WOULD BE CONCERNED ABOUT ANY DECREE WHICH WOULD CONTROL THE LEGITIMATE OPERATIONS AND CONDUCT OF BUSINESS OUTSIDE THE US IN SUCH A MANNER AS TO AFFECT VITAL BRITISH INTERESTS. HMG TAKE GRAVE EXCEPTION TO THE INFRINGEMENT OF THEIR JURISDICTION IMPLICIT IN THE DECREE AS DRAFTED AT PRESIDNT.

HER MAJESTY'S GOVERNMENT ARE ALSO CONCERNED ABOUT THE THREAT TO THE RIGHTS OF BRITISH COPYRIGHT OWNERS UNDER THE UNIVERSAL COPYRIGHT CONVENTION. IN THE VIEW OF HMG, ARTICLES 1 AND IV BIS OF THAT CONVENTION WHICH GOVERNS COPYRIGHT RELATIONS BETWEEN THE TWO COUNTRIES WOULD BE BREACHED BY PROVISIONS RESTRAINING THE GRANT OF EXCLUSIVE PUBLISHING RIGHTS BY UK OWNERS OF COPYRIGHT. FURTHER, IT IS IN OUR OPINION UNREASONABLE TO REQUIRE ARRANGEMENTS FOR THE GRANT OF EXCLUSIVE PUBLISHING RIGHTS TO UK PERSONS CONFIDENTIAL

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WHICH ARE UNWORKABLE IN THAT THEY HAVE NO REGARD FOR THE PRACTICALITIES OF OPERATING A PUBLISHING BUSINESS.

BOOK PUBLISHING IS AN IMPORTANT BRITISH INDUSTRY WHOSE DOMESTIC AND INTERNATIONAL OPERATIONS MAKE A MAJOR CONTRIBUTION TO THE BRITISH ECONOMY AND PLAY AN IMPORTANT PART IN SPREADING CULTURE AND IDEAS. HMG ARE CONCERNED TO SEE THE MAINTENANCE OF A VIGOROUS BRITISH PUBLISHING

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INDUSTRY AND ARE ACCORDINGLY SERIOUSLY PERTURBED BY THE TERMS OF THE DRAFT DECREE WHICH, IF NOT DESIGNED TO UNDERMINE THE INDUSTRY, APPEARS NEVERTHELESS TO BE LIKELY TO HAVE THIS EFFECT.

HER MAJESTY'S GOVERNMENT ASK THEREFORE THAT THE PROPOSED DECREE SHOULD BE RECONSIDERED IN ITS ENTIRETY TO AVOID THE EFFECTS COMPLAINED OF.

BRITISH EMBASSY
WASHINGTON DC

14 APRIL 1975.

(ASTERISK) --POUCHED SEPARATELY.
KISSINGER

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